

R162-2f-403b. Real Estate Trust Accounts.

- (1) A real estate trust account shall be used for the purpose of securing client funds:
- (a) deposited with the principal broker in connection with a real estate transaction regulated under Title 61, Chapter 2f~~et seq~~];
 - (b) if the principal broker is also a builder or developer, deposited under a Real Estate Purchase Contract, construction contract, or other agreement that provides for the construction of a dwelling; and
 - (c) collected in the performance of property management duties, pursuant to ~~this~~ Subsection (3).
- (2) A principal broker violates Subsection 61-2f-401(4)(B) if the principal broker deposits into the real estate trust account more than \$1,000 ~~[\$500]~~ of the principal broker's own funds.
- (3)(a) A principal broker who regularly engages in property management on behalf of seven or more individual units shall establish at least one property management trust account that is:
- (i) separate from the real estate trust account; and
 - (ii) operated in accordance with Subsection R162-2f-403c.
- (b) A principal broker who collects rents or otherwise manages property for no more than six individual units at any given time may use the real estate trust account to secure funds received in connection with the principal broker's property management activities.
- (4) Unless otherwise agreed pursuant to ~~this~~ Subsection (5)(b), a principal broker may not pay a commission from the real estate trust account without first:
- (a) obtaining written authorization from the buyer and seller, through contract or otherwise;
 - (b) closing or otherwise terminating the transaction;
 - (c) delivering the settlement statement to the buyer and seller;
 - (d) ensuring that the buyer or seller whom the principal broker represents has been paid the amount due as determined by the settlement statement;
 - (e) making a record of each disbursement; and
 - (f) depositing funds withdrawn as the principal broker's commission into the principal broker's operating account prior to further disbursing the money.
- (5) A principal broker may disburse funds from a real estate trust account only in accordance with:
- (a) specific language in the Real Estate Purchase Contract authorizing disbursement;
 - (b) other proper written authorization of the parties having an interest in the funds; or
 - (c) court order.
- (6) A principal broker may not release for construction purposes those funds held as deposit money under an agreement that provides for the construction of a dwelling unless the purchaser authorizes such disbursement in writing.
- (7) A principal broker may not release earnest money or other trust funds associated with a failed transaction unless:
- (a) a condition in the Real Estate Purchase Contract authorizing disbursement has occurred; or
 - (b) the parties execute a separate signed agreement containing instructions and authorization for disbursement.